

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MARLO HOWARD, et al.,

Plaintiffs,

v.

JOHN MOORE, LP, et al.,

Defendants.

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No. 4:13-cv-1672

JOINT MOTION TO APPROVE SETTLEMENT

Plaintiff Marlo Howard, individually and on behalf of all others similarly situated, (“Plaintiff”) and Defendants John Moore, LP and John Moore Services, Inc. (“Defendants”) file this their Joint Motion to Approve Settlement and would respectfully show the Court that good cause exists to approve the settlement for the following reasons:

1. On June 7, 2013, Plaintiff Marlo Howard, individually and on behalf of all others similarly situated, initiated this action against Defendants, claiming that they violated the Fair Labor Standards Act, 29 U.S.C. §§ 201-219, (“FLSA”) and seeking to represent all similarly situated individuals. Defendants deny any violation of the FLSA.

2. On February 28, 2014, the Court conditionally certified a class pursuant to 29 U.S.C. § 216(b); notice was subsequently sent to the putative class of employees. A total of 47 employees have joined (and currently remain parties to) this suit. The 47 individuals are identified in Exhibit A to the Settlement Agreement.

3. The parties mediated the case with mediator Richard Brann on August 27, 2015. With the assistance of the mediator and through ongoing negotiations, the Parties ultimately reached a settlement.

4. Because the Plaintiffs' claims arise under the FLSA, the Parties' settlement must be approved by this Court. *See* 29 U.S.C. § 216; *Lynn's Food Stores, Inc. v. United States*, 679 F.2d 1350, 1353 (11th Cir. 1982); *see also D.A. Schulte, Inc. v. Gangi*, 328 U.S. 108 (1946); *Jarrad v. Southeastern Shipbuilding Corp.*, 163 F.2d 960, 961 (5th Cir. 1947).

5. This suit involves employees' private claims against their employer, which were adversarial in nature. During the litigation and settlement of this action, Howard and the other individuals who consented in writing to be part of this lawsuit were represented by experienced counsel. All parties conducted extensive discovery.

6. The Parties agree that the instant action involves a bona fide dispute under the FLSA, primarily regarding what forms of work or activities constitute compensable work and whether the Plaintiffs performed uncompensated work or not. Howard, the opt-in Plaintiffs and their counsel discussed the alleged unpaid hours worked and pay rates and formulated their own proposed settlement figures. The Parties then engaged in settlement discussions, based upon their independent calculations. The Parties agree that the settlement negotiated and reached by the Parties, with the active assistance of professional mediator Richard Brann, reflects a reasonable compromise of the disputed issues. The Parties, through their attorneys, voluntarily agreed to the terms of their

settlement during negotiations. Details of how the settlement amounts were determined and apportioned are set forth in the Affidavit of Melissa Moore. *See* Ex. A, Moore Aff.

7. As set forth above, Howard, the opt-in Plaintiffs participating in this litigation and Defendants have settled their claims in this case as described in the settlement agreement submitted with this motion and executed by Howard, on behalf of himself and the class, and Defendants. Plaintiffs and Defendant have also agreed upon the form of the Settlement Agreement. *See* Ex. B, Settlement Agreement.

8. By its own terms, the settlement agreement between the Parties is contingent upon Court approval.

WHEREFORE, the undersigned Parties request that this Court enter an order approving the settlement agreement and dismissing all Plaintiff's and opt-in Plaintiffs' claims against Defendants in their entirety, with prejudice.

Respectfully Submitted,

MOORE & ASSOCIATES

By:



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